



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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Lead Scientist John Callaway
Members of the Ballast Water Study Peer Review Panel
Delta Stewardship Council
980 9th Street
Sacramento, CA 95824

VIA: Electronic Submission
Hardcopy if Requested

RE: Scientific Review of the Shore-based Ballast Water Discharge Treatment Feasibility Study

Dear Dr. Callaway, Chairman Cooper and Members of the Panel:

I am writing on behalf of our members and supporters to express our strong concern about conflicts of interest in the feasibility study of shore-based treatment ballast water discharges. These conflicts raise serious questions about the integrity of the study.

I was a member of the 2005 Advisory Panel that developed California's ballast water discharge standards, which were passed by the Legislature and signed into law in 2006. Unfortunately, for many years the State Lands Commission (SLC), which is responsible for implementing California's ballast water law, had focused solely on shipboard treatment systems. SLC claimed that shipboard systems had demonstrated in tests that they could meet California's discharge standards, even though the test data showed exactly the opposite; and had paid no attention to shore-based treatment, which has the potential to meet California's standards while being much easier to monitor and regulate. In 2013, under pressure from numerous critics, SLC finally admitted that shipboard treatment systems cannot do the job, and agreed to fund a study of shore-based treatment. The Stewardship Council agreed to manage this study.

This study may well determine whether new waves of invasive species continue to flood Delta waters. Given the importance of the study, and the above history, the Council's RFP contained some important requirements to ensure that the study would not be tainted by conflicts of interest. One of these was that engagement in previous work for SLC's ballast water program was considered a potential conflict of interest that proposals were required to disclose, discuss and mitigate. Another equally if not more important requirement was that project teams could not include companies or individuals that were involved in manufacturing, developing or testing ballast water treatment systems. Any proposal submitted that included such companies or individuals was explicitly disqualified and barred from being awarded a contract.

Regrettably, the Council decided to award the contract to researchers whose business relations and activities clearly violated the Council's own requirements, requirements that the Council had written into its own RFP. When these conflicts came to light the Council, claiming an exemption

from California's contract laws, blocked efforts by the Department of General Services (DGS) to determine whether there were disqualifying conflicts of interest (as directed by the RFP and in accordance with normal state contracting procedures).

We were deeply disturbed by these events. We wrote the Council then, in 2014, urging it to allow the DGS hearing to go forward. If DGS found there were no conflicts, it would eliminate any basis for concerns about the study. However, we warned that if the Council did not allow the conflict issue to be heard, it would further raise questions of bias in both the management and the conduct of the study, and also raise doubts about the integrity of the entire Science Program. Unfortunately, the Council continued to block the hearing, and awarded the contract.

The study, I understand, is now nearly complete, and the members of this Panel have been tasked with its scientific and technical review. Whatever the Council's reasons for acting as it did in 2014, the Panel is independently responsible for insuring the integrity of this study. The Lead Scientist, similarly, is independently responsible for insuring that all scientific work done by or for the Council meets the highest standards of scientific integrity. In normative scientific practice, all conflicts of interest must be disclosed. Further, if a researchers' conflicts with regard to a particular study are direct and significant, then it is not appropriate to have that researcher conduct the study, even if the researcher's conflicts are fully disclosed. In this case there is abundant documentation of direct and substantial conflicts of interest that the researchers simply did not disclose.

I urge you to review this documentation, fulfill your responsibilities by finding that due to conflicts of interest the study does not meet the necessary standards of scientific integrity.

Please contact us if you need any clarification on these points.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jennings", written in a cursive style.

Bill Jennings,
Executive Director California Sportfishing Protection Alliance